

Attorney Docket No. 047711-0276

## United States Patent Application

### DECLARATION UNDER 37 C.F.R. § 1.63

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **ROTATIONAL HOLSTER FOR AN ELECTRONIC DEVICE**

The specification of which

- a.  is attached hereto.  
b.  was filed on December 7, 2001 as Application Serial No. 10/013,938, which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a.  no such applications have been filed.  
b.  such applications have been filed as follows:

| FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119         |                    |                                      |                                     |
|--|--------------------|--------------------------------------|-------------------------------------|
| COUNTRY  | APPLICATION NUMBER | DATE OF FILING<br>(day, month, year) | DATE OF ISSUE<br>(day, month, year) |
| ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S) |                    |                                      |                                     |
| COUNTRY  | APPLICATION NUMBER | DATE OF FILING<br>(day, month, year) | DATE OF ISSUE<br>(day, month, year) |

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. PARENT<br>APPLICATION NUMBER | PCT PARENT<br>APPLICATION<br>NUMBER | PARENT FILING DATE | PARENT PATENT<br>NUMBER |
|-----------------------------------|-------------------------------------|--------------------|-------------------------|
|                                   |                                     |                    |                         |

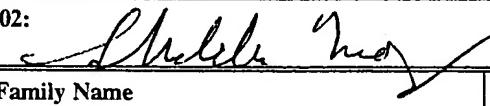
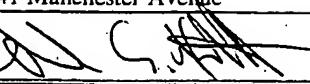
I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

| U.S. PROVISIONAL APPLICATION NUMBER | DATE OF FILING (Day, Month, Year) |
|-------------------------------------|-----------------------------------|
|                                     |                                   |

Please direct all correspondence in this case to Ted R. Rittmaster, Esq. at the address indicated below:

Ted R. Rittmaster  
 Foley & Lardner  
 2029 Century Park East – Suite 3500  
 Los Angeles, CA 90067-3021

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

|  |                            |   |  |   |
|--|----------------------------|---|--|---|
| 2  | Full Name<br>Of Inventor   | Family Name<br>Shetler                          | First Given Name<br>Lance              | Second Given Name<br>--                         |
| 0  | Residence<br>& Citizenship | City<br>Downey                                  | State or Foreign Country<br>California | Country of Citizenship<br>US                    |
| 1  | Post Office<br>Address     | Post Office Address<br>10351 Tristan Drive      | City<br>Downey                         | State & Zip Code/Country<br>California 90241/US |
| Signature of Inventor 201:  |                            |   | Date: 2/6/02                           |   |
| 2  | Full Name<br>Of Inventor   | Family Name<br>Moberg                           | First Given Name<br>Sheldon            | Second Given Name<br>B.                         |
| 0  | Residence<br>& Citizenship | City<br>Granada Hills                           | State or Foreign Country<br>California | Country of Citizenship<br>US                    |
| 2  | Post Office<br>Address     | Post Office Address<br>11828 Paso Robles Avenue | City<br>Granada Hills                  | State & Zip Code/Country<br>California 91344/US |
| Signature of Inventor 202:  |                            |   | Date: 2/5/02                           |   |
| 2  | Full Name<br>Of Inventor   | Family Name<br>Kimball                          | First Given Name<br>Dave David         | Second Given Name<br>-- S.                      |
| 0  | Residence<br>& Citizenship | City<br>Irvine                                  | State or Foreign Country<br>California | Country of Citizenship<br>US                    |
| 3  | Post Office<br>Address     | Post Office Address<br>17541 Manchester Avenue  | City<br>Irvine                         | State & Zip Code/Country<br>California 92614/US |
| Signature of Inventor 203:  |                            |   | Date: 2-8-2002                         |   |

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;  
or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office, or
- (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

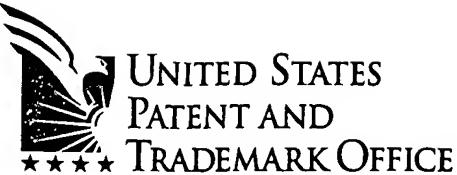
(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

MAY 28, 2002



PTAS

FOLEY & LARDNER  
TED R. RITTMMASTER  
2029 CENTURY PARK EAST  
LOS ANGELES, CA 90067-3021

Chief Information Officer  
Washington, DC 20231  
[www.uspto.gov](http://www.uspto.gov)



\*102040775A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 03/13/2002

REEL/FRAME: 012734/0797  
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

SHÉTLER, LANCE

DOC DATE: 02/06/2002

ASSIGNOR:

MOBERG, SHELDON B.

DOC DATE: 02/05/2002

ASSIGNOR:

KIMBALL, DAVID

DOC DATE: 02/08/2002

ASSIGNEE:

MEDTRONIC MINIMED, INC.  
18000 DEVONSHIRE STREET  
NORTHRIDGE, CALIFORNIA 91325

SERIAL NUMBER: 10013938

FILING DATE: 12/08/2001

PATENT NUMBER:

ISSUE DATE:

012734/0797 PAGE 2

SHAREILL COLES, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

FORM PTO-1595 (modified)

(Rev 6-93)

RECORD  
OFFICE OF PUBLIC RECORDS

04-03-2002

U.S. DEPARTMENT OF COMMERCE

Patent and Trademark Office

102040775

To the Director of the United States Patent and Trademark Office: Please record the attached original documents or copies thereof.

## 1. Name of conveying party(ies):

Lance Shetler  
 Sheldon B. Moberg  
 David Kimball

*3-13*

## 2. Name and address of receiving party(ies):

Medtronic Minimed, Inc.  
 18000 Devonshire Street  
 Northridge, CA 91325

Additional conveying party(ies) NO

## 3. Nature of conveyance:

ASSIGNMENT

Execution Date:  
 02/06/2002; 02/05/2002; 02/08/2002;  
 02/18/2002

Additional name(s) &amp; address(es) attached? NO

## 4. Application number(s) or patent number(s):

If this is being filed together with a new application, the execution date of the application is:

## A. Patent Application Number(s):

10/013,938

## B. Patent Number(s):

Additional numbers attached? NO

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Ted R. Rittmaster  
 FOLEY & LARDNER  
 2029 Century Park East  
 Los Angeles, California 90067-3021

6. Total number of applications/patents involved: 1

7. Total fee (37 C.F.R. § 3.41): \$40.00

 Check Enclosed

Charge to deposit account

8. Deposit account number: 50-0872

04/03/2002 TDIAZ1 00000020 10013938

DO NOT USE THIS SPACE

01 FC-581 40.00 DP

## 9. Statement and signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. The Commissioner is hereby authorized to charge any additional recordation fees which may be required in this matter to the above-identified deposit account.

Ted R. Rittmaster

Name of person signing

Signature

Date

Total number of pages including cover sheet, attachments, and document: 7

## ASSIGNMENT

Attorney Docket No. 047711-0276

(1-3) Insert Name(s) of Inventor(s)

- (1) LANCE SHETLER
- (2) SHELDON B. MOBERG
- (3) DAVE KIMBALL

In consideration of the sum of one dollar (\$1.00) and other good and valuable considerations paid to each of the undersigned, the undersigned agree(s) to assign, and hereby does assign, transfer and set over to

(4) Insert name of Assignee

(4) MEDTRONIC MINIMED, INC.

(5) Insert state of Incorporation of Assignee

(5) Delaware

(6) Insert address of Assignee

(6) of 18000 Devonshire Street, Northridge, CA 91325-1219 (hereinafter designated as the Assignee) the entire worldwide right, title and interest in the invention known as

(7) Insert identification of Invention, such as Title, Case Number or Foreign Application Number

(7) ROTATIONAL HOLSTER FOR AN ELECTRONIC DEVICE for which the undersigned has (have) executed an application for patent in the United States of America

(8) Insert Date of Signing of Application

(8) on 2/5; 2/10; 2/18 & 2/18/2002

1) The undersigned agree(s) to execute all papers necessary in connection with an application in any country of the world and any continuing or divisional applications thereof and also to execute separate assignments in connection with such applications as the Assignee may deem necessary or expedient.

2) The undersigned agree(s) to execute all papers necessary in connection with any interference which may be declared concerning this application or continuation or division thereof and to cooperate with the Assignee in every way possible in obtaining evidence and going forward with such interference.

3) The undersigned agree(s) to execute all papers and documents and perform any act which may be necessary in connection with claims or provisions of the International Convention for Protection of Industrial Property or similar agreements.

4) The undersigned agree(s) to perform all affirmative acts which may be necessary to obtain a grant of a valid United States patent to the Assignee.

5) The undersigned hereby authorize(s) and request(s) the Commissioner of Patents to issue any and all Letters Patents of the United States resulting from said application or any division or divisions or continuing applications thereof to the said Assignee, as Assignee of the entire interest, and hereby covenants that he has (they have) full right to convey the entire interest herein assigned, and that he has (they have) full right to convey the entire interest herein assigned, and that he has (they have) not execute, any agreement in conflict herewith.

6) The undersigned hereby appoints:

Paul H. Kovelman, Reg. No. 35,228  
Cary Talbot, Reg. No. 47,123  
Richard K. Yoon, Reg. No. 42,247

and all of the firm of Foley & Lardner:

Ted R. Rittmaster, Reg. No. 32,933  
Irvin C. Harrington, III, Reg. No. 44,740

the power to insert on this assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

Date: 2/6/02 Signature of Inventor

  
Lance Shetler

State of California

County of Los Angeles

On this February 10, 2002, before me, Christine Pineiro, a Notary Public, personally appeared Lance Shetler, ~~personally known to me (or proved to me on the basis of satisfactory evidence)~~ to be the person whose name is subscribed to the within instrument, and acknowledge to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS, my hand and official seal.



Notary Public



Date: 7/5/07 Signature of Inventor

Sheldon B. Moberg

## State of California

## County of Los Angeles

On this February 5, 2002, before me, Christine Pineiro, a Notary Public, personally appeared Sheldon B. Moberg, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument, and acknowledge to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS, my hand and official seal.



Notary Public

Date: 2-8-2002 Signature of Inventor

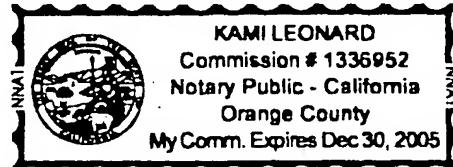
Dave Kimball

## State of California

## County of Los Angeles

On this Feb. 8, 2002, before me, Kami Leonard, a Notary Public, personally appeared Dave Kimball, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledge to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS, my hand and official seal.



Notary Public

ACCEPTANCE:

The undersigned, MEDTRONIC MINIMED, INC., a Delaware corporation, hereby declares that it has accepted the foregoing assignment.

SIGNED AND SEALED this 18<sup>th</sup> day of February, 2002.

ASSIGNEE:

MEDTRONIC MINIMED, INC.,  
a Delaware Corporation

By: 

Name: Kevin R. Sayer

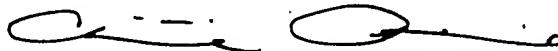
Title: Vice President & General Manager of External Pumps & Disposable Products

State of California

County of Los Angeles

On this February 18, 2002 before me, Christine Pineiro, a Notary Public, personally appeared Kevin R. Sayer, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledge to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS, my hand and official seal.



Notary Public





PATENT  
047711-0276

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Lance Shetler et al. ) Group Art Unit: unknown  
Serial No. 10/013,938 )  
Filed: December 7, 2001 ) Examiner: unknown  
For: ROTATIONAL HOLSTER FOR AN )  
ELECTRONIC DEVICE )  
)

POWER OF ATTORNEY BY ASSIGNEE  
AND EXCLUSION OF INVENTOR UNDER RULE 3.71

Box Patent Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

The undersigned **Kevin R. Sayer** is a representative authorized to sign on behalf of the assignee of the entire interest in the above-identified subject application, **MEDTRONIC MINIMED, INC.** and hereby appoints:

Paul H. Kovelman, Reg. No. 35,228;  
Cary Talbot, Reg. No. 47,123;  
Richard Yoon, Reg. No. 42,247;  
Harold R. Patton, Reg. No. 22,157;  
Girma Wolde-Michael, Reg. No. 36,724;  
Thomas G. Berry, Reg. No. 31,736;  
Kenneth J. Collier, Reg. No. 34,982;  
Daniel W. Latham, Reg. No. 30,401;  
Curtis D. Kinghorn, Reg. No. 33,926;  
Thomas F. Woods, Reg. No. 36,726;  
Beth L. McMahon, Reg. No. 41,987;  
Eric R. Waldkoetter, Reg. No. 36,713;  
Stephen W. Bauer, Reg. No. 32,192;  
Michael Soldner, Reg. No. 41,455

and all of the firm of Foley & Lardner:

Ted R. Rittmaster, Reg. No. 32,933;  
Irvin C. Harrington, III, Reg. No. 44,740

to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventor

and his attorney in accordance with the provisions of Rule 32 of the Patent Office Rules of Practice.

**MEDTRONIC MINIMED, INC.**, per 37 C.F.R. §3.73(b), certifies that the evidentiary documents with respect to its ownership have been reviewed and that to the best of the undersign's knowledge and belief, title is in the assignee seeking this action.

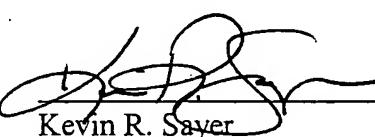
**MEDTRONIC MINIMED, INC.**, declares that 100% ownership is established by an assignment to be in the Regular Utility Patent Application, and that the Inventors are under an obligation to assign the application to **MEDTRONIC MINIMED, INC.**.

Please direct all telephone calls to Ted R. Rittmaster at (310) 975-7963 and all correspondence relative to said application to the following address:

Ted R. Rittmaster  
Foley & Lardner  
2029 Century Park East – Suite 3500  
Los Angeles, CA 90067-3021

**ASSIGNEE: MEDTRONIC MINIMED, INC.**

Date: 2/18/02

Signature:   
Kevin R. Sayer

Title: Vice President & General Manager of External  
Pumps & Disposable Products

Address: 18000 Devonshire Street  
Northridge, CA 91325-1219